

EMPLOYMENT ADVISORY COUNCIL MEETING MINUTES

DATE AND TIME: Wednesday, June 01, 2011
2:00 p.m.

PLACE: Department of Workforce Services
140 E 300 S
Room 211A
Salt Lake City, UT

MEMBERS PRESENT: Kristen Cox, Chair
Greg Diven
James Judd
Dave Davis
Dan Peay
Raylene Ireland
Tony Montano

MEMBERS EXCUSED: Richard Kingery
Chyleen Arbon
John Chindlund
Tom Bingham
Dee Rowland
Richard Thorn

OTHERS: Bill Starks, Dept of Workforce Services
Jon Pierpont, Dept of Workforce Services
Bradley Salmond, Dept of Workforce Services
Kris Springer, Dept of Workforce Services
Jody McMillan, Dept of Workforce Services
Geoff Landward, Dept of Workforce Services
Peter Asplund, Legislative Research and General Council
Ben Christensen, Legislative Research and General Council

Welcome New Council Member:

Kristen Cox welcomed Matt Minkevitch to the Employment Advisory Council as well as all those in attendance.

Reappointment of Four Year Terms for Council Members:

The following four Council members accepted renewed four year terms, which will expire in June, 2015:

Dave Davis
Rich Thorn
Rich Kingery
Chyleen Arbon

Approval of Minutes

Kristen Cox called for a motion on the February 9, 2011 minutes.

Motion: Tony Montano made a motion that the minutes be approved as written. Jim Judd seconded the motion, and the motion was approved by unanimous vote.

Update on UI Special Admin Fund

Kristen expressed appreciation for the Council's support of the initiative to use the Penalty and Interest Fund (P & I fund), aka the Special Administrative Account, for allowable activities and provided an update on the first year's effectiveness. Funds used for job training have been instrumental in maintaining and expanding jobs. Three thousand jobs were kept or created through these job training programs. Some companies were attracted to the state with the job training offer and others thinking of leaving decided to remain. The funds allow the state to creatively compete for companies against other states with recruitment budgets. The department was pleased by strong numbers in the first year. Bill will forward firm return-on-investment numbers as they become available. Programs will be more targeted next year. Summaries of the programs are included in the meeting materials. As the scope of UI broadens to include reemployment training, directing funds toward these activities is an appropriate use of Penalty and Interest Funds. Kristen received recent guidance from the U.S Department of Labor that the Penalty and Interest Fund needs to be used for UI. If used for non-UI activities, DWS will have to allocate back and reimburse our UI admin grant 21% of the amount collected and used for non UI-purposes for fiscal years 2011. The amount of the allocation will be calculated each successive year.

Summary for Fiscal Year 2012:

- \$541,000 to Utah Cluster Acceleration Partnership (UCAP) projects (from proceeds from sale of buildings)
- \$2,200,000 to DWS Economic Service Areas for projects similar to FY 2011
- \$900,000 held in reserve to be transferred to UI for administrative costs associated with assessing and collecting penalties and interest
- \$1,500,000 to fund shortfall in MetLife retirement system liability
- \$800,000 to supplement the UI Trust Fund

Discussion has occurred in the last 48 hours of potentially changing the statute under Section 506 of the Employment Security Act to make clear that P&I Funds do not need to be appropriated by the legislature but may, instead, simply be expended for any UI costs associated with collecting penalty and interest. Since this was not on the agenda, this will not be a discussion point for today's meeting. This may be brought or communicated to the Council in the future as a proposed amendment.

Clarification was requested on MetLife funding. Prior to October 1, 1980, workers were covered under a Travellers (Met Life) pension plan. It was fashioned closely to a federal pension plan. There was an actuarial shortfall that needed to be paid for and accounted for. After October 1, 1980, workers became part of the Utah Retirement System (URS). A goal is to eventually pass off administration of the MetLife plan from DWS to URS.

Centralized New Hire Registry Act Amendments

A new requirement was put in place as result of Claims Resolution Act of 2010 as result of a rider which requires states to capture date of hire in the New Hire Registry. UI has until July, 2012 to pass this legislation; otherwise, ORS will be out of compliance with federal regulations. Proposed amendments to current statute are included in the materials for the meeting. The amendment will now capture the date of hire, and this will be helpful to UI to determine eligibility as well as detect overpayments. No specific sponsor has been lined up. Raylene noted the changes in committee make-up, and agreed best to watch and see who may be the best sponsor.

Update on Solvency of UI Trust Fund

The Trust Fund continues to improve since the interim update provided by Kristen. Revenue receipts are in for the first quarter. With these numbers in, UI is able to confidently project revenues for remainder of year. UI now expects to receive \$30 million more in revenue for 2011 than previously projected. The receipts were up 226% compared to first quarter 2010. The tax rate increases account for most of the jump in revenue. Kristen pointed out that Utah remains in the 45th lowest tax rate for 2010. Bill commented that we're not sure what our ranking will be in 2011; he expects it will remain below the national average.

At this point, the Trust Fund may dip as low as \$160 million in March of 2012 and 2013. Last year, projections went as low as \$20 million. Projections were revised up based on employment growth, wages, total unemployment rates, weeks compensated, as well as revenues. The chart included in the materials reflects a specific point in time (June 30). Assuming no double dip recession in the economy, the Trust Fund should start rebounding quickly toward the minimum adequate reserve level after 2014. Social costs are expected to rise to 0.005 by 2012. Dave Davis noted that we effectively staved off the truly ugly numbers by not going insolvent, as the reserve factor would have gone to 2.

Employment Security Act Amendment Proposals

Currently, the maximum tax rate is set at 9% + social costs, which equates to 9.4% for 2011. Tax rates are determined using a formula that divides the employer's benefit costs for the last four years by their taxable wages that is called the benefit cost ratio. That amount is multiplied by the reserve factor and is called the basic rate, if the employer had no benefit costs, then the basic rate is zero, and the employer pays only social costs. For an employer at the maximum, it means he/she could pay up to \$2,688 per employee per year, if the employee is making the maximum taxable wage of \$28,600. Utah had the second highest maximum rate per employee in the nation in 2010. The industries most impacted are construction and manufacturing, which showed a cluster at the 7.5% level and could jump to the maximum rate for 2012. New companies are assigned the rate of the

industry thus many new construction related companies would be assigned a 9.4% rate for their first year in business. The rate greatly affects small employers. In 2010, of the employers between the 7.4% and 9.4% rate, only 7 of the 2,100 employers had payrolls in excess of \$5 million and only 66 had payroll in excess of \$1 million. The vast majority of these companies have payrolls under \$100,000. Compared to the rates in surrounding states, Utah is at a competitive disadvantage.

The Advisory Council voted at the February, 2011, meeting to go forward and recommend the lowering of the maximum rate to 7% plus social cost. Bill and Kristen met with the Governor who were advised to hold off on the proposal until the next legislative session and, simultaneously, monitor the health of the Trust Fund, and gather more figures. The proposal included in the materials for today's meeting includes more data, and, specifically, a page detailing the number of employers adversely affected.

The proposed change would benefit any employers with assigned rates over 7.4% and could potentially reduce a maximum rated employer's annual tax liability by up to \$572 per employee per year. Those benefit costs would then be socialized. Eventually, the social costs would increase for all (this could equate to about \$28 per employee per year when costs are socialized). A rate increase may not be immediately triggered in 2012, as the socialized cost of \$7 million wouldn't be sufficient to activate a 0.1% increase. The \$28 dollar increase is applicable only when the 0.1 increase in social cost is triggered, which could occur in year 2013 or beyond. The rate reduction is cost neutral over the long term as, eventually, the social costs trigger.

Kristen commented that the Governor's Office and the Chamber of Commerce desired to see this issue widely vetted to make sure there wasn't discomfort about the possibility of rise in social costs.

Motion: Tony Montano made a motion to pursue the reduction in maximum UI rates for employers. Raylene Ireland seconded the motion, and the motion was approved by unanimous vote.

It will be moved forward to Interim Committee.

Amendment to 4-year "Look-back" on Unemployment Insurance Contribution Rates:

Currently, employer benefit ratios and the basic rate are calculated off a 4-year maximum look-back. If that window was expanded to 5 or 6 years, rates would not increase as quickly but would not decrease as quickly, as well. If this change was made, it would cost the Trust Fund \$50 million in 2012 (15% of expected revenues) and \$30 million in 2013 (9% of expected revenues); however, the change would be cost neutral over time as employers future tax rates would likely not decrease as fast beyond 2013 as the costs stay with employers longer. This change would likely trigger a 0.1 decrease in social rate in 2012 and 2013, and this trigger explains part of the expected drop in revenues.

Discussion followed of the experience of retirement systems which sought to expand their rolling averages from 5 to 10 years and have since retreated from that tactic.

A specific disadvantage with expanding the look-back is that rates will not react as fast to fluctuations in Trust Fund solvency. This would have been a problem in redressing the current

situation. Potentially, it sets up the Trust Fund for potential insolvency if the UI tax rate formulas can't react quickly enough.

However, this proposal wouldn't be presented to the Council if Kristen or Bill thought it would impact negatively on the Trust Fund in the next few years.

Primary benefits of this expansion are that employers would be able to pay for the down years in better years and be able to expect more moderated increases and decreases in rates.

Several members expressed concern over the impact of a possible double-dip recession and limitations in ability to respond to threats of insolvency.

The Council did not express interest in moving forward with this issue. The Council is comfortable with leaving the look-back at 4 years for now.

Bill noted the new rates for 2012 will come out in November and suggested the issue could be revisited, if a shift is seen in the new numbers. Kristen tabled the discussion on this proposal for now.

Other Business:

Since the Special Admin Fund was not on the agenda for 5 days prior to the meeting, the Council is not able to discuss it at this meeting. Bill will forward a draft of the proposed amendments and will circulate it to the Council shortly. If the Council is comfortable with the proposal, it will be added to the other amendments.

Motion: Matt Minkevitch made the motion to adjourn. Tony Montano seconded the motion, the motion passed unanimously.

Adjourn

The meeting adjourned at 3:00 pm